

Appl. No. : 10/677,757
Filed : October 1, 2003

REMARKS

Claims 1, 3-9, and 11-22 stand rejected. Applicant has amended Claims 1 and 18. Upon further reflection and by this paper, Applicant is now adding new Claims 23-29 to present claims of differing scope. Thus, Claims 1, 3-9, and 11-29 are pending in the application and are presented for examination in view of the amendments and the following remarks. Applicant respectfully requests examination of new Claims 23 through 29.

Drawing Objections

The drawings were objected to for not illustrating the protrusion extending to the same extent around an entire circumference of the post as recited in dependent Claim 19. In response, Applicant is submitting a new sheet for Figure 8. New Figure 8 includes a drawing that illustrates an exemplary embodiment of the post 140 having a protrusion 360 that extends to the same extent around the circumference of the post 140. Applicant respectfully submits that with the added drawing the post feature (as specified in Claim 19) is shown.

Support for the post feature can be found at least at the following portions of the specification: paragraphs [0050] through [0054]. Applicant notes that the rejection to the drawings was premised solely upon 37 C.F.R. § 1.83(a) and not 35 U.S.C. § 112. In view of the proposed drawing change and the argument provided above, Applicant submits that this objection is overcome.

The Specification Has Been Amended

Applicant has amended the specification to add descriptions of new Figure 8 in the "Brief Description of the Drawings" and the "Detailed Description" sections. Support for the added description of Figure 8 is found at least at paragraphs [0050] through [0054] from the specification.

Specification Objections under 37 C.F.R. § 1.75(d)(1)

The specification was objected to as failing to provide proper antecedent basis for the phrase "at least a portion of the shaft having a cylindrical shape" as closely recited in dependent Claim 21. Applicant respectfully submits that the specification as-filed provides proper antecedent basis for the phrase. The specification describes in paragraph [0050] an embodiment

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of the shaft 350 component of the post 140 that has “a diameter sufficient to perform its structural function” and “a diameter between 0.5 mm and 3 mm and particularly about 2 mm.” The specification further describes a post where “at least a portion of the head 370 of each post 140 is larger than the diameter of the shaft 350” in paragraph [0051] (emphasis added).

Applicant respectfully submits that the specification is clear enough for one having skill in the art when reviewing the specification, including paragraphs [0050] and [0051], to understand that the claimed geometric feature of the post includes a shaft having a round circumference forming a cylindrical shape. Applicant respectfully submits that the specification provides proper antecedent basis for the cited phrase.

Claim Objections

Dependent Claims 19, 20, and 22 were objected to for informalities relating to the phrases “the protrusion.” Applicant has amended independent Claims 1 and 18 to replace the phrase “at least one protrusion” with the phrase “a protrusion.” Applicant respectfully submits that the objections to the claims have been overcome.

Claim Rejections under 35 U.S.C. § 112, 2nd ¶

Claims 1, 3-7, and 18-22 were rejected as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Office Action identified Claims 1 and 18 as being unclear for reciting each post comprising ... “at least one protrusion.” Applicant has amended Claims 1 and 18 to replace the phrase “at least one protrusion” with the phrase “a protrusion.” Applicant respectfully submits that amended Claims 1 and 18 and dependent Claims 3-7 and 19-22 are definite.

Obviousness Type Double Patenting Rejection

Claims 1, 3-9, and 11-22 were rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over Claims 39-41 of U.S. Patent No. 6,582,403. Applicant has included a Terminal Disclaimer in compliance with 37 C.F.R. § 1.321(c) to overcome the obviousness type double patenting rejection. Thus, allowance of Claims 1, 3-9, and 11-22 is respectfully requested.

New Claims 23 through 29

New independent Claim 23 has been added to present a claim of differing scope. Method Claim 23 recites some limitations that are similar to limitations found in independent method Claim 17. Claim 23 further recites “securing the medical article to the base by expanding a plurality of openings about the heads of the plurality of upwardly extending posts” and “relaxing each expanded opening about the corresponding post such that the relaxed opening lies between the respective overhang surface of each head and the base, whereby the overhang surface inhibits the corresponding head from inadvertently passing back through the opening.” Support for these specific limitations is found at least in paragraphs [0055] and [0056] of Applicant’s specification (“the post will tend to expand the opening” and “the collar 370 can relax toward its original size,” respectively). Applicant respectfully submits that the applied prior art fails to disclose at least the recited steps.

Applicant respectfully submits that new dependent Claims 24-29, which depend from independent Claim 23, are allowable over the applied prior art for at least the reasons stated above in connection with the respective independent claim.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, the Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. The Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any child or related prosecution history shall not reasonably infer that the Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

CONCLUSION

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For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.


The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicants' attorney in order to resolve such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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